

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 806

Introduced by Assembly Member La Suer

February 18, 2005

An act to ~~amend Section 30166 of the Revenue and Taxation Code, relating to taxation~~ add Chapter 5.8 (commencing with Section 13489) to Title 6 of Part 4 of the Penal Code, relating to high technology crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, La Suer. ~~Cigarette and tobacco products taxes~~ *High technology crimes: lab fee.*

Existing law establishes the High Technology Theft Apprehension and Prosecution Program. The purpose of the program is to provide local law enforcement and district attorneys with the tools necessary to successfully interdict the promulgation of high technology crime. Existing law creates the High Technology Theft Apprehension and Prosecution Program Trust Fund. Money in that fund is required to be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high technology-related crimes.

This bill would establish the High Technology Laboratory Trust Fund within the General Fund. This bill would authorize the imposition, as specified, of a laboratory analysis fee, not to exceed \$25,000, in connection with conviction for certain technology related offenses. The fee would be required to be deposited by the county collecting it into the High Technology Laboratory Trust Fund, and would be required to be used, upon appropriation by the Legislature, for the purposes of defraying the costs of forensic computer analysis,

or analysis of other electronic or computer evidence related to investigating and prosecuting specified high technology related offenses.

By imposing additional duties on local entities in connection with the collection and administration of the laboratory fee, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold.~~

~~This bill would make technical, nonsubstantive changes to the provision providing for the sale of stamp and meter register settings to distributors.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 30166 of the Revenue and Taxation~~
- 2 ~~Code is amended to read:~~
- 3 ~~30166. (a) Stamps and meter register settings shall be sold at~~
- 4 ~~their denominated values, less 0.85 percent, to licensed~~
- 5 ~~distributors.~~
- 6 ~~(b) Payment for stamps or meter register settings shall be~~
- 7 ~~made at the time of purchase, provided that a licensed distributor,~~
- 8 ~~subject to the conditions and provisions of this article, may be~~
- 9 ~~permitted to defer payments therefor.~~
- 10 ~~SECTION 1. Chapter 5.8 (commencing with Section 13849)~~
- 11 ~~is added to Title 6 of Part 413 of the Penal Code, to read:~~

1 CHAPTER 5.8. THE HIGH TECHNOLOGY LABORATORY TRUST
2 FUND
3

4 13849. (a) *The High Technology Laboratory Trust Fund is*
5 *hereby created as a special account within the General Fund, to*
6 *be administered by the Office of Emergency Services. Money in*
7 *the fund shall, upon appropriation by the Legislature, be used for*
8 *the purposes of defraying the costs incurred for computer*
9 *forensic analysis or other analysis of electronic or computer*
10 *evidence related to investigating and prosecuting*
11 *high-technology offenses, as described in subdivision (c).*

12 (b) *In addition to any other fine, restitution fine or order of*
13 *restitution, the court may order payment by the defendant*
14 *convicted of an offense described in subdivision (c) of a minimum*
15 *forensic computer laboratory analysis fee, if an analysis was*
16 *conducted in the case, for the reasonable costs incurred for*
17 *computer forensic analysis or other analysis of electronic or*
18 *computer evidence, not to exceed twenty-five thousand dollars*
19 *(\$25,000) per case, including cases where the defendant is not*
20 *convicted of a felony but is convicted of a misdemeanor. The*
21 *court may reduce or waive this fee upon a finding that the*
22 *defendant does not have the ability to pay that fee. The fee is to*
23 *be collected only after any other court ordered restitution or*
24 *criminal fines are satisfied. The moneys deposited with the*
25 *county treasurer pursuant to this section shall be transferred to*
26 *the Controller for deposit in the High Technology Laboratory*
27 *Trust Fund. This fee shall not be assessed unless the request for*
28 *the fee is included in an indictment or in an information or other*
29 *accusatory pleading filed before trial.*

30 (c) *For purposes of this section, a “high-technology related*
31 *offense” is an offense committed with the aid of a computer,*
32 *computer network, electronic mail, or the Internet.*

33 (d) *For purposes of this section, the terms “computer system”*
34 *and “computer network” are to be construed as they are defined*
35 *in Section 502.*

36 SEC. 2. *No reimbursement is required by this act pursuant to*
37 *Section 6 of Article XIII B of the California Constitution because*
38 *the only costs that may be incurred by a local agency or school*
39 *district will be incurred because this act creates a new crime or*
40 *infraction, eliminates a crime or infraction, or changes the*

1 *penalty for a crime or infraction, within the meaning of Section*
2 *17556 of the Government Code, or changes the definition of a*
3 *crime within the meaning of Section 6 of Article XIII B of the*
4 *California Constitution.*

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